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10/619,481	07/16/2003	Tom Hanna	5301	7365

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SHOEMAKER AND MATTARE, LTD  
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2001 JEFFERSON DAVIS HIGHWAY  
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EXAMINER

NELSON, JUDITH A

ART UNIT PAPER NUMBER

3644

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/619,481

## Applicant(s)

HANNA, TOM

## Examiner

Judith A. Nelson

## Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/16/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Oath/Declaration***

Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

### ***Drawings***

The drawings are objected to because:

- a) reference number "30", used to depict one of the lateral sides of the buckle frame is drawn (by line connection) in fig. 2, to the "trademark or logo (34); and
- b) the "pawl", in fig. 2, is missing it's reference number (18).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second end of the strip" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of the legal phrase "means" recited in line 3. Correction is required. See MPEP § 608.01(b).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "the pawl", recited in line 6 of the specification, should perhaps be introduced as --a pawl--.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,321,891 (Moeller).

With respect to claims 1, 3, 4 and 7, Moeller discloses Applicant's invention, as best understood.

Moeller discloses a dog collar comprising:

a strip of flexible material made of a nylon having first and second ends (note col. 2, lines 43-49);

a buckle (11) comprising a frame (as depicted in the drawing) having two lateral sides (13 and 14), top and bottom sides (11 and 12) interconnecting the lateral sides (13 and 14) and two crossbars (extending between the top and bottom sides, and a pawl (17) mounted for pivoting movement on a first of said crossbars (15 and 16), the pawl (17) having sufficient length to engage (see drawing and note col. 4, lines 33-39) one of the said lateral sides (13);

a first of the said ends of the strip, doubled (at loop 2), and sewn together (at reference number 3) having a hole (6) formed therein, and in the vicinity of the doubled first end of the strip (at loop 2), for receiving the pawl (17);

a second of said ends of the strip (the end closest to loop 4) being passed around a second of said crossbars (15) and back along itself to form an overlapped portion (4), and being secured by an adjustment mechanism (8) to an intermediate portion of the strip.

Concerning claims 6 and more of claim 7, Moeller teaches the animal collar comprising a straight end of a D-ring (9) in close proximity to the first end of the strip (the end nearest to loop 2), and the hole (6) and retained in the strip. The disclosed collar of Moeller inferably teaches both ends of a strip of the collar being doubled and sewn (at areas 3 and 5).

Regarding claim 8, Moeller also further discloses the adjustment mechanism (8), as being independent of the buckle (10).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,321,891 (Moeller).

Moeller discloses the claimed invention except for teaching the strip having only a single hole punched therethrough, nor does the reference teach the buckle (10), as being constructed from metal.

Firstly, pertaining to the limitation of a “single hole formed in the strip”, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to have constructed the collar, as taught by Moeller, with one single hole punched in the strip so as to customize the collar for only one size animal, and further since Applicant provides no criticality for such a modification to the collar.

Secondly regarding the material makeup of the buckle, it would have been further obvious to a skilled artisan at the time the invention was made, to have made use of a buckle made from metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,321,891 (Moeller), in view of U.S. Patent 5,785,010 (Koch).

While Moeller discloses the claimed invention (as discussed above) and specifically an O-ring/adjustment mechanism (8), securing the second end of the strip and the mechanism (8) being independent of the buckle (10), the reference fails to teach the adjustment mechanism comprising a unitary metal body having two apertures separated by a center post, and the second end of the strip is secured to the center post by connecting a doubled portion of the second end of the strip with stitching confining the center post between said layers; nor does the reference teach a band of material extending around the overlapped portions of the strip.

Koch teaches a collar using a metal bodied, O-ring adjustment, mechanism (5), having two apertures separated by a center post, and the second end of the strip is secured to the center post by connecting a doubled portion of the second end of the strip with stitching confining the center post between said layers. Koch further teaches a band of material (23 and 26) extending around overlapped portions of the collar (as best depicted in fig. 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted the O-ring of Moeller, with that taught by Koch, since two O-ring types are known and the function the same, and furthermore it would have also been obvious to a skilled artisan to modify the collar of Moeller, by incorporating bands of material to wrap around the overlapped ends of the collar of Moeller, since Koch teaches that such a modification helps to "guide the ends" of the collar.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,701,894; 5,297,514; 6,513,460; 5,297,514; 5,099,799; 4,621,591; 4,491,090; 4,224,901; 4,993,215 and 4,741,288.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judith A. Nelson whose telephone number is (703) 305-0984. The examiner can normally be reached on M-Thur. 9:00 a.m. - 6:30 p.m., alt. Fri..



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 306-4180.

Judith A. Nelson  
Examiner  
Art Unit 3644

jan   
12/15/03